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Allied World National Assurance Company and
Allied World Assurance Company (U.S.) Inc.*

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

In re:
SK FOODS, L.P., a California limited
partnership,
Debtor.

Case No. 09-29162-D-11

Chapter 11

DC No. TRM-1

In re:
RHM INDUSTRIAL/SPECIALTY
FOODS, INC., a California Corporation,
d/b/a Colusa County Canning Co.,
Debtor.

Case No. 09-29161-D-11

Chapter 11

DC No. TRM-1

**ALLIED WORLD NATIONAL
ASSURANCE COMPANY AND ALLIED
WORLD ASSURANCE COMPANY (U.S.)
INC.'S MOTION FOR RELIEF FROM
THE AUTOMATIC STAY**

Date: June 23, 2010

Time: 10:00 a.m.

Place: Department D, Courtroom 34
501 I Street, 6th Floor
Sacramento, CA 95814

Judge: Hon. Robert S. Bardwil

1 TO THE COURT, THE DEBTORS, THE CHAPTER 11 TRUSTEE, AND THEIR COUNSEL
2 OF RECORD:

3 Allied World National Assurance Company (“Allied World”) and Allied World
4 Assurance Company (U.S.) Inc. (“AWAC”) (collectively “Movants”), by and through their
5 undersigned counsel, hereby move this Court pursuant to 11 U.S.C. § 362(d) and Rules 4001(a)
6 and 9014 of the Federal Rules of Bankruptcy Procedure for an Order granting Movants relief
7 from the automatic stay to commence litigation in a non-bankruptcy forum against SK Foods,
8 L.P. and RHM Industrial/Specialty Foods, Inc. (collectively “Debtors”), along with other
9 defendants, for the purpose of seeking a judicial determination that (1) Allied World is entitled to
10 rescind certain insuring agreements of For Private Companies Policy No. C011427/001 issued to
11 S.K. Foods PM Corp. for the February 19, 2009 to August 17, 2009 Policy Period¹ (the “Primary
12 Policy”), (2) AWAC is entitled to a declaration that Excess Directors & Officers Liability
13 Insurance Following Form Policy No. C011818/001 sought by S.K. Foods PM Corp. for the April
14 8, 2009 to February 19, 2010 Policy Period (the “Excess Policy”) was never effectively issued or
15 delivered by reason of the failure of a condition precedent, and so is of no legal force or effect, (3)
16 the defendants, including Debtors, are liable to Movants for any payments made by Movants to or
17 on behalf of any insureds pursuant to Movants’ obligations under the Primary or Excess Policies
18 (4) in the alternative, AWAC is entitled to rescind certain insuring agreements of the Excess
19 Policy, and Movants are entitled to reformation and/or relief for breach of Warranty with respect
20 to the Primary and Excess Policies. (Movants’ proposed action is referred to herein as the
21 “Rescission Action”).

22 This Motion is made on the grounds that “cause” exists pursuant to 11 U.S.C. § 362(d)(1)
23 to grant relief from the automatic stay, because allowing Movants to pursue the Rescission Action
24 against all defendants in a non-bankruptcy forum will promote judicial economy and prevent
25 undue prejudice to Movants. In addition, the Primary and Excess Policies prohibit Debtors from

26 ¹ The Primary Policy was initially issued with a Policy Period of February 19, 2009 to
27 February 19, 2010. However, the Primary Policy was cancelled effective August 17, 2009, by
28 First Insurance Funding Corp., the company that provided SK Foods PM Corp. with financing for
the premium of the Primary Policy.

1 objecting to or opposing Movants' request for relief from the automatic stay.

2 This Motion is based upon the Notice of Motion, the Memorandum of Points and
3 Authorities, the Declaration of Peter R. Lucier and exhibits thereto, the other pleadings and orders
4 already on file in this case, and on such other argument and evidence as may be presented by
5 counsel at the time of the hearing.

6 WHEREFORE, Movants pray that this Court issue an Order as follows:

7 1. Movants are granted relief from the automatic stay to commence the proposed
8 Rescission Action against the Debtors and other defendants in a non-bankruptcy forum;

9 2. That the order be binding and effective despite any conversion of this bankruptcy case
10 to a case under any other chapter of Title 11 of the United States Code;

11 3. That the 14-day stay under Federal Rule of Bankruptcy Procedure 4001(a)(3) be
12 waived; and

13 4. Granting such other relief as the Court deems just and appropriate.

14 Dated: May 26, 2010

Respectfully submitted,

15 TROUTMAN SANDERS LLP

16
17 By: /s/ Peter R. Lucier

18 Terrence R. McInnis

19 Kevin F. Kieffer

Peter R. Lucier

Attorneys for Movants Allied World

National Assurance Company and Allied

World Assurance Company (U.S.) Inc.